

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**DESIGNATION FORM**

*(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)*

Address of Plaintiff: 411 Summerhill Road, Berwick, PA 18603

Address of Defendant: \_\_\_\_\_

Place of Accident, Incident or Transaction: Lehigh County, PA

**RELATED CASE, IF ANY:**

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |  |                              |  |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/21/2020

SC Must sign here  
Attorney-at-Law / Pro Se Plaintiff

49490

Attorney I.D. # (if applicable)

**CIVIL: (Place a ✓ in one category only)****A. Federal Question Cases:**

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☒ 11. All other Federal Question Cases
- (Please specify): Federal Tort Claims Act

**B. Diversity Jurisdiction Cases:**

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): \_\_\_\_\_
- ☐ 7. Products Liability
- ☐ 8. Products Liability – Asbestos
- ☐ 9. All other Diversity Cases
- (Please specify): \_\_\_\_\_

**ARBITRATION CERTIFICATION**

*(The effect of this certification is to remove the case from eligibility for arbitration.)*

I, Stuart A. Carpey, counsel of record or pro se plaintiff, do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
- ☐ Relief other than monetary damages is sought.

DATE: 12/21/2020

SC Sign here if applicable  
Attorney-at-Law / Pro Se Plaintiff

49490

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Michael Sharkuski, Jr.  
v.

CIVIL ACTION

The United States of America

NO. 5:20-cv-6388

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (✓)

<u>12/21/20</u> <b>Date</b>	<u>Stuart A. Carpey</u> <b>Attorney-at-law</b>	<u>Plaintiff</u> <b>Attorney for</b>
<u>(610) 834-6030</u> <b>Telephone</b>	<u>(610) 940-1743</u> <b>FAX Number</b>	<u>Scarpey@carpeylaw.com</u> <b>E-Mail Address</b>



**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Michael Sharkuski, Jr.

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Stuart A. Carpey, Esq., Carpey Law, 600 W.

Germantown Pk., Ste. 400, Plymouth Meeting, PA 19462

**DEFENDANTS**

The United States of America

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)☐ 1 U.S. Government Plaintiff☐ 3 Federal Question (U.S. Government Not a Party)☒ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>LABOR</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Federal Tort Claims Act, 28 U.S.C. Sec. 1346(b), 28 U.S.C. Sec. 2671-2680

Brief description of cause:

Federal Tort Claims Act

**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

\$3,000,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/21/20

SIGNATURE OF ATTORNEY OF RECORD

/s/ Stuart A. Carpey

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Stuart A. Carpey, Esquire  
Attorney I.D. No.: 49490  
Carpey Law, P.C.  
600 W. Germantown Pike, Suite 400  
Plymouth Meeting, PA 19462  
(610) 834-6030  
[scarpey@carpeylaw.com](mailto:scarpey@carpeylaw.com)

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**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA**

Michael Sharkuski, Jr.	:	Civil Action
411 Summerhill Road	:	
Berwick, PA 18603	:	No. 5:20-cv-6388
	:	
Plaintiff	:	
	:	
v.	:	
	:	
	:	
	:	
The United States of America	:	
	:	
	:	
Defendant	:	

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**COMPLAINT**

Plaintiff, Michael Sharkuski, Jr., pursuant to, and in compliance with, the Federal Tort Claims Act (hereinafter "FTCA"), 28 U.S.C. Section 1346(b), 28 U.S.C. Section 2671-2680, alleges and states the following:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff, Michael Sharkuski, Jr., is an individual residing at the above address.
2. Defendant is The United States of America.
3. United States Postal Service, (USPS) is an independent agency of the executive branch of the United States federal government responsible for providing postal service in the United States of America with a registered office and/or principal place of business at the above address.



4. At all times relevant herein, Timothy D. Grammes was the agent, servant, workman and/or employee of the USPS and of Defendant United States of America acting within the course and scope of said relationship.
5. The United States of America is a sovereign state. Liability for the acts described herein is based on actions of agents, servants, and/or employees of the USPS, the United State of America or some other agency thereof and were at all times material to this action acting within the course and scope of their employment or agency, for which sovereign immunity is waived under the FTCA, 28 U.S.C. Section 2671.
6. This Court may properly exercise original jurisdiction over the parties and subject matter of this action pursuant to 28 U.S.C. Section 1346(b)(1), 28 U.S.C. Section 1331, and 28 U.S.C. Section. 2674.
7. Venue is properly laid in the Eastern District of Pennsylvania pursuant to 28 U.S.C. Section 1402(b). The events and acts complained of and giving rise to this action occurred within Lehigh County in this District.
8. Pennsylvania substantive law applies to this action pursuant to 28 U.S.C. Section 1346.
9. The Plaintiff has exhausted the administrative requirements set forth to 28 U.S.C. Section 2675 having submitted a Standard Form 95, Claim for Damage, Injury, or Death to the United States Postal Office with acknowledgment of receipt by same, and moreover said defendants issued a final disposition of this claim on October 22, 2020 allowing Plaintiff to seek resolution of his claims in this Court.

**FACTUAL ALLEGATIONS (NEGLIGENCE)**

10. Plaintiff hereby incorporates paragraphs 1-9 herein by reference as though more fully set forth at length.
11. On or about April 11, 2019, Plaintiff, Michael Sharkuski, Jr., was the driver of a vehicle which was proceeding in a southerly direction on Mauch Chunk Road, at or near its intersection with Linden Lane, Lehigh County, Pennsylvania, when it was struck by a motor vehicle (mail truck) operated by Timothy D. Gammes, and owned by the USPS and Defendant the United States of America, and being operated with the permission and direction of Defendant, which motor vehicle was stopped on the

side of Mauch Chunk Road and without warning was attempting to make an illegal U-Turn, violently striking the vehicle in which Plaintiff was an occupant, resulting in the injuries and damages set forth in detail hereinafter.

12. The accident aforesaid was caused by the negligence of Defendant, by and through its employee Timothy D. Gammes in that he did:
  - a. Fail to have said motor vehicle under proper and adequate control at the time of the collision;
  - b. Operate said motor vehicle at a high and excessive rate of speed under the circumstances;
  - c. Fail to give proper and sufficient warning of the approach of said motor vehicle;
  - d. Operate said motor vehicle without due regard for the rights, safety, and position of Plaintiff, Michael Sharkuski, Jr.;
  - e. Operate said motor vehicle in such a manner that it could not be brought to a stop within the assured, clear distance ahead;
  - f. Operate the motor vehicle without the full use of his mental or physical faculties, or both;
  - g. Fail to keep a careful lookout;
  - h. Fail to maintain proper control of his vehicle;
  - i. Fail to know, or adhere to, or both, one or more pertinent statutes, standards, or the laws of the state of Pennsylvania, or any combination of them; pertaining to the operation of motor vehicles; and,
  - j. Otherwise, fail to exercise caution and due care.
13. As a result of negligence and carelessness aforesaid, Plaintiff, Michael Sharkuski, Jr. sustained injury to his neck, back, and right shoulder, as well as various other injuries and conditions as may be established, and injury to the nerves and nervous system causing Plaintiff to endure pain and suffering and to lose time from Plaintiff's usual duties, activities, and occupation, causing a loss of earnings and earning capacity, the amount of past and future lost income, and to incur debts and obligations for medicine and medical treatment; all of which are or may be permanent.

14. Plaintiff, Michael Sharkuski, Jr., was the owner of one of the vehicles involved in the aforesaid accident, and that as a result said vehicle was damaged necessitating expenditures for its repair and Plaintiff, Michael Sharkuski, Jr., was deprived of its use.

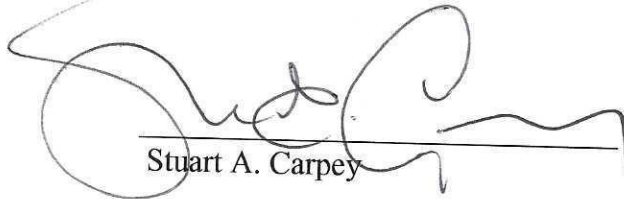
**Wherefore**, Plaintiff, prays for relief against Defendant for Defendant's violations of the Federal Tort Claims Act as described herein in the amount of Three Million Dollars (\$3,000,000.00) plus interest costs and attorney's fees as provided by said statute and Plaintiff further prays for such relief as this Court deems equitable.

Carpey Law, P.C.

By: /s/ Stuart A. Carpey  
Stuart A. Carpey, Esquire  
Attorney for Plaintiff

### Verification

Stuart A. Carpey is counsel for the Plaintiff in this action and verifies that the statements made in the foregoing pleading are true and correct to the best of his knowledge, information and belief. The undersigned understands the statements therein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities. A substitute verification will be filed in a timely manner signed by the Plaintiff.



Stuart A. Carpey

Date: 12/21/20